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Contact: John Darcy
Tel: 03 88 41 31 56

Date: 12/04/2019

DH-DD(2019)410

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Meeting: 1348th meeting (June 2019) (DH)

Item reference: Action plan (09/04/2019)

Communication from the Netherlands concerning the case of Corallo v. the Netherlands (Application No. 29593/17)

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Réunion : 1348^e réunion (juin 2019) (DH)

Référence du point : Plan d'action

Communication des Pays-Bas concernant l'affaire Corallo c. Pays-Bas (Requête n° 29593/17)
(anglais uniquement)



Action Plan

**of the Government of the Kingdom of the Netherlands
on the implementation of the judgment of the Court
concerning Application no. 29593/17**

CORALLO

v.

the Netherlands

Judgment of 9 October 2018

Final on 9 October 2018

Introduction

1. On 25 April 2017 Mr Francesco CORALLO ('the applicant') submitted an application to the European Court of Human Rights ('the Court') under Article 34 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('the Convention').
2. On 9 October 2018 the Court, unanimously, found a violation by the Kingdom of the Netherlands of Article 3 of the Convention.
3. Furthermore, the Court held that the Kingdom of the Netherlands was to pay the applicant, within three months EUR 5,000 in respect of non-pecuniary damage (five thousand euros) and EUR 5,500 (five thousand five hundred euros) in respect of costs and expenses.
4. With reference to the enhanced classification procedure¹ the Government of the Kingdom of the Netherlands, on behalf of Sint Maarten, ('the Government') wishes to present its action plan, with a view to informing the Committee of Ministers about the measures taken and the measures envisaged.

Case description

5. The case concerns the applicant's inhuman or degrading treatment on account of the poor conditions of his detention (from 13 December 2016 to 16 August 2017) pending extradition proceedings in a detention facility adjacent to Philipsburg Police Station in Sint Maarten (Caribbean part of the Kingdom of the Netherlands) (violation of Article 3). The European Court noted in particular that the applicant was detained for 114 days in a multi-occupancy cell under conditions which had been considered by the CPT (cf. [CPT/Inf \(2015\) 27](#)) as "totally inappropriate for holding remand prisoners" (§ 39 of the judgment).

Just Satisfaction

6. In its judgment the Court has held that the Government has to pay the applicant, within three months €5,000 in respect of non-pecuniary damage and € 5,500.00 in respect of costs and expenses, plus any tax that may be chargeable. The Government has paid the said amount and has informed the Execution Department thereof by sending it the payment registration form by e-mail dated 3 January 2019.

¹ As set out in CM/Inf/DH(2010)45 and CM/Inf/DH(2010)37E

Individual Measures

7. The amount of EUR 10,500 imposed by the Court, was transferred to the account of the applicants' legal representative on 30 November 2018. The Government is of the opinion that no further individual measures are necessary. No consequences of the violation for the applicant persist. The judgement does not seem to give cause to take further individual measures. Also, the applicant did not lodge any request for individual measures afterwards.

General Measures

8. ***Measures taken***

The applicant was held in a detention facility adjacent to the Philipsburg Police Station (*Huis van Bewaring*).

9. The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of 25 August 2015, to which the Court refers in its judgment, is critical with regard to the above-mentioned detention facility and considers it unfit for detention of a longer duration. In particular, the CPT recommends:

[...] that urgent steps be taken to improve the conditions of detention at Philipsburg Police Station, in particular:

- a. All detained persons should be provided with at least 4 m² of living space per person in multi-occupancy cells;
- b. All detained persons should be provided with a sheet, pillow and towel from the moment they are accommodated in this facility, as well as with hygiene products and cleaning materials for the cell;
- c. Ventilation and access to natural light should be improved;
- d. All sanitary annexes should be partitioned up to the ceiling and leaking toilets and pipes repaired;
- e. All cells should be equipped with a call bell.

10. In the wake of hurricane Irma that hit Sint Maarten in September 2017, the facilities adjacent to the Philipsburg Police Station have been renovated. Leakages have been repaired and recently the walls have been painted to improve the atmosphere in the facility. As for the conditions in the cells, the sanitary facilities have been separated by a wall from the rest of the cell. Further, measures have been taken to provide all detainees with a bed, sheet, pillow and towel, and with hygiene products. Ventilation and access to natural light are issues that need further attention but have been improved as far as possible in the facility as it stands now (see below under measures envisaged).

11. With regard to the duration of the detention in police custody the Government notes that persons are not detained in excess of three days or, at the most, of ten days, in line with the

relevant provisions of the Code of Criminal Procedure. The cells are not used to hold remand and sentenced prisoners anymore. In view of the overall detention policy aimed at preventing overcrowding, a cap has been placed on the maximum number of detainees per cell. In this respect frequent consultations are held between the Ministry of Justice, the Prison, the Prosecutor's Office and the Parole Office to assess overcrowding and, if necessary, detainees are moved to alternative accommodations or, if possible, released. Furthermore, electronic monitoring of detainees has been introduced and the training has taken place.

12. *Measures envisaged*

Further improvement of the facility will be taken up as part of an overall renovation/rebuilding project of detention facilities in Sint Maarten. Currently, the terms of reference are being drafted to further the plans to build a multi-functional detention center in accordance with international standards. In view of financial constraints, it is not possible to indicate a concrete time-frame at present. However, the authorities of Sint Maarten are determined to move forward and improve overall detention conditions. In this respect the minister of Justice informs the parliament (*Staten van Sint Maarten*) on a regular basis of the progress made.

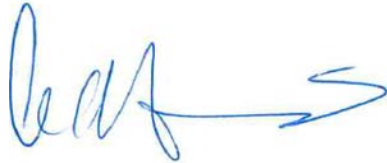
Publications and dissemination

13. The Court's judgment in this case has been discussed in the House of Representatives of Parliament (*Staten-Generaal*). By letter of 10 October 2018 the Minister of the Interior and Kingdom Relations has answered questions from the House of Representatives concerning the follow-up of the judgment. At the request of three members of parliament of Sint Maarten (*Staten van Sint Maarten*) a public meeting was held with the minister of Justice on 12 November 2018 to discuss the consequences of the judgment of the Court.
14. The judgment has been summarised in the Government of the Netherlands 2018 annual report on international human rights complaints procedures which will be sent to parliament in April/May 2019.
15. The Court's judgment has also been reported on in several newspapers in the Kingdom of the Netherlands (European and Caribbean part).
16. Further, the Court's judgment was published in:
 - a. Nederlandse Juristenblad (NJB), 2018/2156
 - b. *Caribbean Network*, <http://caribischnetwerk.ntr.nl>, 10 October 2018

Conclusion

17. The Government believes that the measures taken so far and those envisaged will fulfil the requirements that arise from the Court's judgment and that by taking these measures similar violations in the future will be prevented.

The Hague, 9 April 2019

A handwritten signature in blue ink, appearing to be 'Kanta Adhin', with a long horizontal stroke extending to the right.

Kanta Adhin
Deputy Agent of the Government of the
Kingdom of the Netherlands, on behalf of Sint Maarten